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EXAMINER

FERGUSON, MICHAEL P

ART UNIT

PAPER NUMBER

3679

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/942,112

Applicant(s)

MARSHALL ET AL.

Examiner

Michael P. Ferguson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 03 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 23 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9 is/are allowed.
- 6) ☒ Claim(s) 10-13, 16-22 and 24 is/are rejected.
- 7) ☐ Claim(s) 14 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/18/01.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

Examiner notes that the previous Office action, mailed March 1, 2006, was improperly indicated as a final action. The previous Office action should been indicated as a non-final action.

### ***Election/Restrictions***

1. Claim 23 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on September 13, 2004.

### ***Claim Objections***

2. Claim 19 is objected to because of the following informalities:

Claim 19 (line 2) recites "the openings". It should recite --the slots--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 10,11 and 16-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Lendi (US 3,969,855).

As to claim 10, Lendi discloses a joint comprising:

a first metal plate 17;

a second metal plate **17** having an edge thereof disposed adjacent an edge of the first plate;

a facing strip **4** configured to engage the first and second plates, the facing strip being bent along the center thereof such that only the edges **23** of the facing strip which are parallel to the bend contact the plates; and

at least one bracket **22** attached to the facing strip and having a slot capable of receiving the shank of a bolt **10** and capable of preventing the head of a bolt from passing therethrough and for holding the bolt to the facing strip without penetrating through the facing strip; and

at least one bolt **10** for holding the facing strip against the plates (Figures 1-4).

As to claim 11, Lendi discloses a joint wherein the at least one bracket **22** comprises a plurality of brackets (not shown; inherently, at opposite ends of facing strip **4**) having slots, and wherein at least two of the brackets having slots disposed on opposite sides from one another (Figures 3-4).

As to claim 16, Lendi discloses a method capable of reducing splatter through a opening in a bullet trap, the method comprising:

disposing first and second plates **17** adjacent one another so as to leave an opening;

selecting a facing strip **4**, the facing strip being bent lengthwise into an angle;

selecting a plurality of attachment bolts **10**;

attaching the plurality of attachment bolts to the facing strip such that the bolts do not penetrate the facing strip;

placing a facing strip over the opening generally parallel to the opening so that the facing strip slopes rearwardly and outwardly such that the only portion of the facing strip brought into engagement with the first and second plates to secure the plates together is the lateral edges **23** of the facing strip (Figures 1-4).

As to claim 17, Lendi discloses a method comprising attaching the plurality of attachment bolts **10** to the facing strip **4** with brackets **22** (not shown; inherently, at opposite ends of facing strip **4**) prior to the placement of the facing strip against the plates **17** (Figures 3-4).

As to claim 18, Lendi discloses a method comprising removably positioning the bolts **10** in the brackets **22** (Figure 4).

As to claim 19, Lendi discloses a method wherein at least two of the brackets **22** (not shown; inherently, at opposite ends of facing strip **4**) have slots for receiving the bolts **10**, and wherein the slots are disposed on opposing sides of the brackets (Figures 3-4).

As to claim 20, Lendi discloses a method capable of forming a section of a bullet trap, the method comprising:

placing first and second plates **17** adjacent one another so as to leave a seam therebetween;

selecting a joint strip having a facing strip **4** which is beveled to have two rearwardly extending walls terminating at lateral edges **23** and a bracket **22** permanently attached to the facing strip (bracket **22** is permanently attached to facing strip **4**, if one chooses not to remove nut **11** from bolt **10**) for holding an end of a bolt **10**

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to the facing strip, the bracket being attached to the facing strip independent of the bolt;  
and

covering the seam between the plates with the facing strip so that the bolt  
extends through the seam: and

engaging the lateral edges of the facing strip with the first and second plates so  
that the only portion of the facing strip which touches the first and second plates is the  
lateral edges (Figures 1-4).

As to claim 21, Lendi discloses a method comprising placing a backing strip 9  
along the seam on the side of the plates 17 opposite the joint strip (Figure 4).

As to claim 22, Lendi discloses a method comprising selecting a joint strip having  
a plurality of brackets 22 (not shown; inherently, at opposite ends of facing strip 4)  
attached to the facing strip 4 for holding a plurality of bolts 10 (Figures 3-4).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all  
obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 13 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable  
over Lendi.

As to claim 13, Lendi discloses a joint comprising:

a pair of metal plates 17 disposed such that an edge of one plate is adjacent the  
edge of the other plate;

a joint strip disposed to cover the adjacent edges of the plates comprising:

a facing strip **4** defining a pair of sloped walls extending outwardly and rearwardly from a central portion extending along a long axis of the facing strip such that only the edges **23** of the sloped walls contact the plates; and

means **22** for attaching a plurality of bolts **10** to the facing strip without the bolts penetrating through the facing strip comprising a plurality of brackets **22** (not shown; inherently, at opposite ends of facing strip **4**) permanently attached to the facing strip (bracket **22** is permanently attached to facing strip **4**, if one chooses not to remove nut **11** from bolt **10**), each of the brackets being configured to receive a bolt **10**;

a backing strip **9** disposed to cover the adjacent edges of the plates on the side of the plates opposite the facing strip; and

a plurality of bolts **10** for holding the facing strip, plates, and backing strip together (Figures 1-4).

Lendi fails to disclose a joint comprising a pair of steel plates.

The applicant is reminded that the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a joint as disclosed by Lendi to have a pair of steel plates as such material is a well-known, widely used and commercially available material within the art.

As to claim 24, Lendi discloses a method capable of forming a bullet proof joint, the method comprising:

placing an edge of a first metal plate **17** adjacent an edge of a second plate **17** so as to form a joint,

selecting a joint strip, the joint strip comprising a facing strip **4** which is formed to have two rearwardly extending walls terminating at lateral edges **23** and at least one bracket **22** permanently attached to the facing strip (bracket **22** is permanently attached to facing strip **4**, if one chooses not to remove nut **11** from bolt **10**) for holding an end of a bolt **10** to the facing strip, the at least one bracket being attached to the facing strip independent of the bolt; and

covering the joint between the steel plates with the joint strip so that the only portion of the facing strip which touches the first and second plates is the lateral edges (Figures 1-4).

Lendi fails to disclose a method comprising a pair of steel plates.

The applicant is reminded that the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a method as disclosed by Lendi to comprise a pair of steel plates as such material is a well-known, widely used and commercially available material within the art.

7. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kellogg (US 1,724,601).

As to claim 24, Kellogg discloses a method capable of forming a bullet proof joint, the method comprising:



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placing an edge of a first plate **B** adjacent an edge of a second plate **B** so as to form a joint,

selecting a joint strip, the joint strip comprising a facing strip **J** which is formed to have two rearwardly extending walls terminating at lateral edges and at least one bracket **E** permanently attached to the facing strip (bracket **E** is permanently attached to facing strip **J**, if one chooses not to remove the facing strip from the bracket) capable of holding an end of a bolt to the facing strip, the at least one bracket being attached to the facing strip independent of the bolt; and

covering the joint between the plates with the joint strip so that the only portion of the facing strip which touches the first and second plates is the lateral edges (Figures 1-3).

Kellogg fails to disclose a method comprising a pair of steel plates.

The applicant is reminded that the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a method as disclosed by Kellogg to comprise a pair of steel plates as such material is a well-known, widely used and commercially available material within the art.

8. Claims 10,12,16,20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kellogg in view of Dalbec (US 4,028,856).

As to claim 10, Kellogg discloses a joint comprising:

a first metal plate **B**;

a second metal plate **B** having an edge thereof disposed adjacent an edge of the first plate;

a facing strip **J** configured to engage the first and second plates, the facing strip being bent along the center thereof such that only the edges of the facing strip which are parallel to the bend contact the bullet proof plates; and

at least one bracket **E** attached to the facing strip and having a slot capable of receiving the shank of a bolt and capable of preventing the head of a bolt from passing therethrough and for holding the bolt to the facing strip without penetrating through the facing strip; and

at least one nail **I** for holding the facing strip against the plates (Figures 1-3).

Kellogg discloses a joint comprising a nail **I** for holding the facing strip **J** against the plates **B**, instead of a bolt (Figure 2).

Dalbey teaches a joint comprising a bolt **40** for holding a facing strip **22** against first and second plates **20** (Figure 5). Inasmuch as the references disclose nails and bolts as art recognized equivalents, it would have been obvious to one of ordinary skill in the exercise art to substitute one for the other. In re Fout, 675 F.2d 297, 301, 213 USPQ 532, 536 (CCPA 1982).

As to claim 12, Kellogg fails to disclose a joint wherein the facing strip has two walls disposed about 155 degrees from one another.

The applicant is reminded that a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). Accordingly, it would have been obvious to one having ordinary skill in

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the art at the time the invention was made to modify a joint as disclosed by Kellogg wherein the facing strip has two walls disposed about 155 degrees from one another as such practice is a design consideration within the skill of the art.

As to claim 16, Kellogg discloses a method capable of reducing splatter through a opening in a bullet trap, the method comprising:

disposing first and second plates **B** adjacent one another so as to leave an opening;

selecting a facing strip **J**, the facing strip being bent lengthwise into an angle;

selecting a plurality of attachment nails **I**;

attaching the plurality of attachment nails to the facing strip such that the nails do not penetrate the facing strip;

placing a facing strip over the opening generally parallel to the opening so that the facing strip slopes rearwardly and outwardly such that the only portion of the facing strip brought into engagement with the first and second plates to secure the plates together is the lateral edges of the facing strip (Figures 1-3).

Kellogg discloses a method comprising a plurality of nails **I**, instead of bolts (Figure 2).

Dalbec teaches a method comprising a plurality of bolts **40** (Figure 5). Inasmuch as the references disclose nails and bolts as art recognized equivalents, it would have been obvious to one of ordinary skill in the exercise art to substitute one for the other.

In re Fout, 675 F.2d 297, 301, 213 USPQ 532, 536 (CCPA 1982).

As to claim 20, Kellogg discloses a method capable of forming a section of a bullet trap, the method comprising:

placing first and second plates **B** adjacent one another so as to leave a seam therebetween;

selecting a joint strip having a facing strip **J** which is beveled to have two rearwardly extending walls terminating at lateral edges and a bracket **E** permanently attached to the facing strip (bracket **E** is permanently attached to facing strip **J**, if one chooses not to remove the facing strip from the bracket) capable of holding an end of a bolt to the facing strip, the bracket being attached to the facing strip independent of the bolt; and

covering the seam between the plates with the facing strip so that a nail **I** extends through the seam: and

engaging the lateral edges of the facing strip with the first and second plates so that the only portion of the facing strip which touches the first and second plates is the lateral edges (Figures 1-3).

Kellogg discloses a method comprising a nails **I**, instead of a bolt (Figure 2).

Dalbec teaches a method comprising a bolt **40** (Figure 5). Inasmuch as the references disclose nails and bolts as art recognized equivalents, it would have been obvious to one of ordinary skill in the exercise art to substitute one for the other. In re Fout, 675 F.2d 297, 301, 213 USPQ 532, 536 (CCPA 1982).

As to claim 21, Kellogg discloses a method comprising placing a backing strip **A** along the seam on the side of the plates **B** opposite the joint strip **J** (Figure 2).

***Allowable Subject Matter***

9. Claims 1-9 are allowed.
10. Claims 14 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
11. The following is a statement of reasons for the indication of allowable subject matter:

As to claim 1, Lendi discloses the claimed joint with the exception of at least one bracket comprising a slot extending inwardly from an edge of the at least one bracket, the at least one bracket being welded to the facing strip.

As to claim 7, Lendi discloses the claimed joint with the exception of comprising a facing strip being bent along the center thereof so as to define two sides and so as to form an angle less than 180 degrees between the two sides such that the two sides extend both outwardly and backwardly from the center thereof; and at least one bracket comprising a flat piece of plate steel having a slot formed therein, the at least one bracket being disposed in a generally planar relationship to the lateral strip and being welded to the facing strip.

As to claim 14, Lendi discloses the claimed joint with the exception of wherein the facing strip is bent lengthwise into an angle of about 155 degrees, and wherein sides of the facing strip extend linearly so as to contact the bullet proof steel plates only at an edge thereof.

There is no teaching or suggestion, absent the applicants' own disclosure, for one having ordinary skill in the art at the time the invention was made to modify the joint as disclosed by Lendi to have the above mentioned elemental features.

***Response to Arguments***

12. Applicant's arguments filed March 3, 2006 have been fully considered but they are not persuasive.

As to claim 10, Attorney argues that:

Lendi does not disclose a joint comprising at least one bracket attached to the facing strip and having *a slot for receiving the shank of a bolt and preventing the head of a bolt from passing therethrough.*

Examiner disagrees. As to claim 10, Lendi discloses a joint comprising at least one bracket **22** attached to the facing strip **4** and having a slot capable of receiving the shank of a bolt **10** and capable of preventing the head of a bolt from passing therethrough (Figure 4).

As to claim 13, Attorney argues that:

Lendi does not disclose a joint comprising *a plurality of brackets permanently attached to the facing strip, each of the brackets being configured to receive a bolt.*

Examiner disagrees. As to claim 13, Lendi discloses a joint comprising a plurality of brackets **22** (not shown; inherently, at opposite ends of facing strip **4**) permanently attached to the facing strip (bracket **22** is permanently attached to facing strip **4**, if one

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chooses not to remove nut **11** from bolt **10**), each of the brackets being configured to receive a bolt **10** (Figures 1,3 and 4).

As to claims 20 and 24, Attorney argues that:

Lendi does not disclose a method wherein a bracket is *permanently attached* to the facing strip for holding an end of a bolt to the facing strip.

Examiner disagrees. As to claims 20 and 24, Lendi discloses a method wherein a bracket **22** is permanently attached to the facing strip **4** (bracket **22** is permanently attached to facing strip **4**, if one chooses not to remove nut **11** from bolt **10**) for holding an end of a bolt **10** to the facing strip (Figure 4).

As to claim 10, Attorney argues that:

Kellogg does not disclose a joint comprising at least one bracket attached to the facing strip and having *a slot for receiving the shank of a bolt and preventing the head of a bolt from passing therethrough*.

Examiner disagrees. As to claim 10, Kellogg discloses a joint comprising at least one bracket **E** attached to the facing strip **J** and having a slot capable of receiving the shank of a bolt and capable of preventing the head of a bolt from passing therethrough (Figure 2).

As to claims 20 and 24, Attorney argues that:

Kellogg does not disclose a method wherein a bracket is *permanently attached* to the facing strip *for holding an end of a bolt to the facing strip*.

Examiner disagrees. As to claims 20 and 24, Kellogg discloses a method wherein a bracket **E** is permanently attached to the facing strip **J** (bracket **E** is

permanently attached to facing strip J, if one chooses not to remove the facing strip from the bracket) capable of holding an end of a bolt to the facing strip (Figure 2).

***Conclusion***

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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